

been high and its costs relatively low—a devastating one-two punch to families already struggling to make it.

To make matters worse, President Obama didn't stop with the CPP. He also sought to impose similar limitations on any new plants in an attempt to prevent them from being built at all. It is an equally concerning regulation and one that would have further devastated coal communities. I am glad President Trump will include it in his Executive order today.

Coal communities face enough challenges without Washington piling on more with these unfortunate attacks. Fortunately, we have a President who will work with us to provide much needed relief.

Today's Executive order is good news for coal communities. It is a victory for middle-class families and another important step away from the over-regulation of the Obama years.

We all want clean air and clean water, but that is not what President Obama's energy regulatory policies were actually about. It was an ideological vanity project. It wouldn't have even solved the problem it purported to address.

Now, fortunately, the EPA will have the opportunity to go back to the drawing board and get this right with balanced and serious policies. The EPA should work with stakeholders across the country to develop sensible policies that balance the economic needs of our communities with the realities of our environment. This way we can protect America's middle class, America's miners, and America's natural resources all at once.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

NOMINATION OF NEIL GORSUCH

Mr. SCHUMER. Mr. President, first I will speak on the Supreme Court. Last Thursday, I announced my opposition to Judge Neil Gorsuch and endeavored to explain why, on the merits, I don't believe he deserves to be elevated to a lifetime appointment on the Supreme Court.

I listen to my friend, the distinguished majority leader, each morning. Since the beginning of this Congress, he has chalked up every Democratic request or objection in this body to "sour grapes," to some leftover resentment from the election. It is just not true, but he keeps trying. Now he is trying

the same strategy with Judge Gorsuch. He repeatedly cites a quote by a friend of the judge's who, of course, said "there is no principled reason" to oppose this nomination, so it must be politics, the majority leader concludes. I respectfully but wholeheartedly disagree with the majority leader on this point.

There are several principled reasons to oppose Judge Gorsuch's nomination.

First, Judge Gorsuch was unable to sufficiently convince me that he would be an independent check on a President who has shown almost no restraint from Executive overreach. He asserted independence but could not point to a single thing in his record to guarantee it.

He refused to publicly condemn what the President did when he went after the three-judge panel on the Ninth Circuit. He had a case before them, and the President said: If they don't decide my way, they will be guilty of terrorism. I have never seen anything like that in all my years of politics. Judge Gorsuch refused to publicly condemn. He said privately to different people that he was disheartened. When President Trump said: He didn't mean me, Judge Gorsuch shrugged his shoulders, going along with what the President said.

Second, he was unable to convince me that he would be a mainstream Justice who could rule free from the biases of politics and ideology. His career, his early writings, and his judicial record suggest not a neutral legal mind but instead someone with a deep-seated conservative ideology. He was championed by the Federalist Society and the Heritage Foundation and has not shown 1 inch of difference between his views and theirs. I would ask my colleagues this question: Are all these groups who are spending dark, secret, undisclosed money to support his nomination doing so because they just want a Justice on the Court who will "call balls and strikes"? I doubt it. Some here may agree with the Heritage Foundation, but they are not a mainstream organization. They are on the far right. That is their right to be. But their advocacy of Judge Gorsuch suggests he is not a "balls and strikes" guy.

Finally, Judge Gorsuch is someone who almost instinctively favors the powerful over the weak and corporations over working Americans. That is what his record shows. Judge Gorsuch repeatedly sided with insurance companies that wanted to deny disability benefits to employees, and in employment discrimination cases, he sided with employers the great majority of the time.

He wrote—in dissent—that trucking company executives were right to fire truckdriver Alphonse Maddin for leaving his trailer in order to save his life. And just last week, we saw another example of how extreme Judge Gorsuch's views are when the Supreme Court unanimously rebuked his interpreta-

tion of the Individuals with Disabilities Act. In the opinion of even Justice Thomas, the educational rights Judge Gorsuch would allow to disabled students under the law amount to no education at all.

Judge Gorsuch's opportunity to disabuse us of all of those objections was in the hearing process, but he declined to substantively answer question after question. Absent a real description of his judicial philosophy, all we have to go on is his record—a record that landed Judge Gorsuch on the lists of the conservative Federalist Society and Heritage Foundation. President Trump, of course, selected Judge Gorsuch off those preapproved conservative lists, as he promised he would during his campaign.

To claim, as the majority leader does, that Judge Gorsuch is simply a neutral judge is belied by his history since his college days, his own judicial record, and the manner of his selection.

These are principled reasons to oppose Judge Gorsuch, even if people on the other side disagree with them. We need a Justice who will be an independent check on the President. We need someone who will consider fairly the plight of average citizens, not further tip the scales of justice in favor of already powerful corporations. Judge Gorsuch—his record and his performance in the hearing—did nothing to show me he could be that kind of Justice.

So when Republicans said that if Democrats won't support Judge Gorsuch, we won't support any Republican-nominated judge, that is simply not true. It may be hard for us to support anyone from a list culled by the Federalist Society and the Heritage Foundation, but we have several reasons to be concerned with Judge Gorsuch specifically.

For all the hand-wringing by my friends on the other side of the aisle that they cannot imagine Democrats voting against Judge Gorsuch, I would like to remind them that only three—three—of the current Senators on the Republican side voted for either of President Obama's confirmed nominees, and all of them went along with my friend the majority leader's unprecedented plan to refuse President Obama's third nominee, Judge Garland, even a hearing or a vote for nearly a year.

Which brings us back to the present day, where we Democrats have participated in a fair, transparent, and thorough process of advice and consent. Now that the time to decide whether to provide consent approaches, we take that responsibility seriously. A lifetime appointment on the highest Court of the land is not something to be taken lightly.

To participate in hearings and a thorough process—something we were denied—does not mean you have to be a rubberstamp. After a thorough review of Judge Gorsuch's record, many of my colleagues and I have concluded we cannot consent.

If Judge Gorsuch fails to reach 60 votes, it will not be because Democrats are being obstructionists, it will be because he failed to convince 60 Senators that he belongs on the Supreme Court.

My friend the majority leader made the decision to break 230 years of Senate precedent by holding this seat open for over a year. If the nominee cannot earn the support of 60 Senators, the answer is not to break precedent by fundamentally and permanently changing the rules and traditions of the Senate; the answer is to change the nominee. This idea that if Judge Gorsuch doesn't get 60 votes, the majority leader has to inexorably change the rules of the Senate—that idea is utter bunk.

It is the free choice of my colleagues on the other side of the aisle to pursue a change in rules if that is what they decide. And I would remind the majority leader that he doesn't come to this decision with clean hands. He blocked Merrick Garland for over a year. We wouldn't even be here if Judge Garland had been given fair consideration. That is why we are here today—not because of any Democrat.

BORDER WALL

Mr. SCHUMER. Mr. President, finally, on the wall—a place where there may be more agreement between some of us than on Judge Garland—last night we learned that the Trump administration will be seeking deep cuts to critical domestic programs in order to pay for a border wall. The administration is asking the American taxpayer to cover the cost of a wall—unnecessary, ineffective, and absurdly expensive—that Mexico was supposed to pay for. He is cutting programs that are vital to the middle class in order to get that done.

They want to cut the New Starts Transportation Program and TIGER grants. These are the lifeblood of our road and tunnel and bridge building efforts. Build a wall or repair or build a bridge or tunnel or road in your community? What a choice. They want to cut off NIH funding for cancer research to pay for the wall. How many Americans would support that decision? They want to cut programs that create jobs and improve people's lives—all so the President can get his “big, beautiful wall”—a wall that we don't need and that will be utterly ineffective. Think about that. The President wants to slow down cancer research and make the middle-class taxpayer shoulder the cost of a wall that Mexico was supposed to pay for. He wants to cut funding for roads and bridges to build a wall that Mexico was supposed to pay for.

The proposed cuts the administration sent up last night will not receive the support of very many people, I believe, in this Chamber. These cuts would be bad for the American people. They are not what the American people want, and they are completely against one of the President's core promises in his

campaign. I believe they will be vigorously opposed by Members on both sides of the aisle.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

PROTOCOL TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF MONTENEGRO

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of Executive Calendar No. 1, the Montenegro treaty, which the clerk will state.

The senior assistant legislative clerk read as follows:

Treaty document No. 114-12. Protocol to the North Atlantic Treaty of 1949 on the Accession of Montenegro.

Pending:

McConnell amendment No. 193, to change the enactment date.

McConnell amendment No. 194 (to amendment No. 193), of a perfecting nature.

The PRESIDING OFFICER. The majority whip.

THE PRESIDENT'S BUDGET

Mr. CORNYN. Mr. President, I came to the floor to talk about the nomination of Judge Gorsuch to serve as the next Supreme Court Justice, and I happened to walk in while the Democratic leader was speaking. In the brief time I heard him comment this morning, I concluded that basically the Democrats are against everything. They are against everything. He knows as well as anybody that when the President sends over a budget, it is a proposal by the President that Congress routinely changes, arriving at its own budget priorities, working with the White House.

NOMINATION OF NEIL GORSUCH

Mr. President, before I get too distracted by the minority leader's opposition to anything and everything, let me comment a little bit on the Gorsuch nomination.

We will meet next week, on April 3, to vote Judge Gorsuch's nomination out of the Senate Judiciary Committee, at which time his nomination will come to the floor. The world had a chance to see—and certainly all of America—during the 20 hours that Judge Gorsuch testified before the Judiciary Committee that he is a superb nominee. He is a person with a brilliant legal mind. He has an incredible educational resume and extensive experience both in the public sector—working at the Department of Justice—and in private practice and then for the last 10 years, of course, serving as a

Federal judge on the Tenth Circuit Court of Appeals out of Denver.

I believe he is one of the most qualified nominees in recent history, to be sure, and you might have to go back into our early history to find somebody on par with Judge Gorsuch in terms of his qualifications for this important office. Unfortunately, in spite of this, we are seeing the minority leader threatening to filibuster this incredibly well-qualified judge. I hope other Democrats will exercise independence and do the right thing.

I was glad to see just yesterday our colleague, the former chairman of the Judiciary Committee, the senior Senator from Vermont, say that he had a different take. He was quoted in a Vermont newspaper—perhaps it is a blog—it is called VT Digger.org. Senator LEAHY, the former chairman of the Judiciary Committee, said: “I am not inclined to filibuster.”

Just for the benefit of anybody who might be listening, let me distinguish between the use of the filibuster as opposed to voting against the nominee.

It is a fact that there has never been a successful partisan filibuster of a Supreme Court nominee in American history—never.

The only time cloture was denied on a bipartisan basis of a nominee to the Supreme Court was in 1968, when Abe Fortas was nominated by then-President Lyndon Johnson. Mr. Fortas, then serving as an Associate Justice on the Supreme Court of the United States, had a number of problems, one of which was that he was still advising President Johnson while he was a sitting member of the U.S. Supreme Court. He was basically giving political advice from the bench to the President of the United States, with whom he had a long-established relationship.

Then there was a suspicion that Earl Warren, the Chief Justice of the United States, had cut a deal with the President such that he would resign effective upon the qualifying of his successor. So there wasn't any literal vacancy to fill. The President would then nominate Abe Fortas, then an Associate Justice, and he would then nominate Homer Thornberry, then a judge on the Fifth Circuit Court of Appeals, to fill the Fortas Associate Justice slot. There were a couple of embarrassing items to Judge Fortas that caused a bipartisan denial of cloture, or the cutting off of debate, after which his nomination was withdrawn after 4 days of floor debate.

I mention all of this because sometimes people want to lead you down this rabbit trail, claiming that what they are doing is something that is well established in our history and in this precedence of the Senate when that is absolutely not true. There has never been a partisan filibuster of a Supreme Court nominee that has been successful in denying that Justice to the Supreme Court's nomination to be confirmed—never. What Democrats are threatening to do next week when